

CAUSE NO. 348-355554-24

NIA MITCHELL,	§	IN THE DISTRICT COURT OF
	§	
PLAINTIFF,	§	
	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
ROBERTO GALAN,	§	
	§	
DEFENDANT.	§	_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, NIA MITCHELL, hereinafter referred to as “Plaintiff” and files this Original Petition complaining of ROBERTO GALAN hereinafter referred to as “Defendant.” Plaintiff asserts the following against Defendant:

I. DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure.
2. As required by Texas Rule of Civil Procedure 47(c), Plaintiff’s counsel states that Plaintiff seeks monetary relief over \$1,000,000.00; however, the amount of monetary relief actually awarded will ultimately be determined by a jury.

II. PARTIES

3. Plaintiff is a resident and citizen of Cook County, Illinois, residing at 8112 South Rhodes Ave., Chicago, Illinois 60619. The last three digits of Plaintiff’s Driver’s License are 766.
4. Defendant is a resident and citizen of Parker County, Texas, and may be served with process at his last known residence, 3801 E. 199 Hwy, Springtown, Texas 76082, or wherever he

may be found.

III. JURISDICTION & VENUE

5. The court has jurisdiction over this cause because the amount in controversy exceeds this court's minimum jurisdictional requirements.

6. Venue is proper in Tarrant County, Texas pursuant to §15.002(a)(1) and §15.002(a)(2), Texas Civil Practices and Remedies Code, because all or a substantial part of the events leading to this cause occurred in Tarrant County, Texas.

IV. FACTS

7. On February 20, 2023, at approximately 3:38pm, Defendant Galan was the driver of a white 2018 Chevrolet Silverado C1500 Truck, owned by and registered to Defendant Galan, traveling west bound on Lakeworth Blvd at the intersection of Boat Club Road and Lakeworth Blvd, an intersection in Lake Worth, Tarrant County, Texas.

8. Plaintiff Nia Mitchell was traveling south bound on Boat Club Road but had come to a stop at a red light as she waited for the light to turn green to make a left-hand turn onto Lake Worth Blvd.



9. After Nia's light turned green, Nia began to make a lawful left-hand turn to travel east bound on Lakeworth Blvd.

10. Defendant Galan ran the red light at the intersection of Boat Club Road and Lakeworth Blvd and struck Nia Mitchell. (video 1 – time stamp 03:38:01).



11. The impact sent Nia Mitchell's car flying across the intersection, spinning her vehicle until she finally comes to a stop. The force of the impact caused the airbags to deploy in Nia Mitchell's car.

12. Because of the severity of the wreck, Plaintiff sustained a serious head injury.
13. In the meantime, police arrived at the scene and approached Defendant to find out what happened. Defendant Galan lied to the police and denied running a red light. Instead, Defendant Galan placed all the blame on Nia Mitchell as she was pulled from her vehicle by a Good Samaritan. Not once did Defendant Galan attempt to help Nia Mitchell as she sat helpless, dazed, and confused. Nia Mitchell was unable to advocate for herself due to the injuries she sustained.
14. After the incident, Plaintiff's counsel obtained footage from the Quick Trip Gas Station which showed that Defendant **clearly ran the red light** at an unsafe speed and caused the collision which resulted in significant injuries to Plaintiff.
15. Despite there being a clear video and evidence, Defendant Galan and his representatives continue to place blame on Nia Mitchell.
16. Defendant Galan was distracted, inattentive, and struck Nia Mitchell's vehicle which resulted in significant injuries and damages, which were proximately caused by Defendant's negligence and/or negligence per se and gross negligence.

V. CAUSES OF ACTION

Count one – Negligence

17. Plaintiff incorporates by reference the preceding paragraphs as if stated fully herein.
18. At the time and on the occasion in question, Defendant was operating a vehicle negligently. Defendant had a duty to exercise ordinary care and operate the vehicle in a reasonable and prudent manner. Defendant breached that duty in the following respects, including but not limited to the following:

- a) Driving at a rate of speed greater than that at which an ordinary and prudent person would have driven under the same or similar circumstances, in violation of the laws of the State of Texas, including TEX. TRANS. CODE ANN. **§545.351**;
- b) Operating his vehicle with willful or wanton disregard for the safety of other persons, which disregard was the result of conscious indifference to the rights, welfare and safety of those persons affected by it in violation of the laws of the State of Texas, including TEX. TRANS. CODE ANN. **§545.401**;
- c) Running a red light, in violation of TEX. TRANS. CODE ANN. **§544.007**;
- d) Failure to maintain proper control of his vehicle;
- e) Failure to timely apply the brakes on his vehicle to avoid the collision;
- f) Failure to keep such lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
- g) Failure to maintain proper attention while driving;
- h) Choosing to drive distracted;
- i) Failure to exercise that degree of ordinary care which a reasonable prudent person would have in the same or similar circumstances;
- j) Failure to safely turn the vehicle he was operating to avoid the collision;
- k) Failure to identify, predict, decide, and execute evasive maneuvers appropriately in order to avoid a collision; and
- l) Failure to control the speed of the vehicle.

19. Each of the foregoing acts and omissions, singularly or in combination with others, constituted negligence, negligence per se, and/or gross negligence by Defendant and

proximately caused the occurrence in question and the serious injuries to Plaintiff, for which Plaintiff is entitled to recover damages hereinafter set forth.

Count Two – Negligence Per Se

20. Plaintiff incorporates by reference the preceding paragraphs as if stated fully herein.

21. Defendant's conduct described herein constitutes an unexcused breach of duty imposed by the Texas Transportation Code. Plaintiff would show the Court that Defendant was negligent per se in that Defendant's conduct violated Texas Transportation Code Section 545.351, Texas Transportation Code Section 544.007(d), and/or Texas Transportation Code Section 544.401.

22. Plaintiff Nia Mitchell is a member of the class of persons that the Texas Transportation Code was designed to protect.

Count Three – Gross Negligence

23. Plaintiff incorporates by reference the preceding paragraphs as if stated fully herein.

24. Defendant's conduct was more than a momentary thoughtlessness or inadvertence. Rather, the acts and/or omission by Defendant in the preceding paragraphs constitute gross negligence as the term is defined in section 41.001(11) of the Texas Civil Practices and Remedies Code.

25. Defendant's conduct involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff Nia Mitchell. Defendant had actual, subjective awareness of the risk involved, but nevertheless, proceeded in conscious indifference to the rights, safety, or welfare of Nia Mitchell or of others similarly situated.

26. The above acts and/or omissions were singularly and cumulatively the proximate cause of the occurrence in question and of Plaintiff's injuries and damages.

VI. DAMAGES

27. As a result of the above-described acts of Defendant, Plaintiff has been severely damaged. Accordingly, Plaintiff is entitled to recover against Defendant for all such applicable damages under Texas law.

28. Plaintiff is entitled to recover the following items of damages, which are in an amount in excess of the minimal jurisdictional limits of this Court.

- a. Physical pain and suffering in the past;
- b. Physical pain and suffering, in reasonable probability, sustained in the future;
- c. Mental anguish in the past;
- d. Mental anguish, in reasonable probability, sustained in the future;
- e. Reasonable and necessary medical expenses in the past;
- f. Reasonable and necessary medical expenses, in reasonable probability, sustained in the future;
- g. Loss of wages in the past;
- h. Loss of wages, in reasonable probability, sustained in the future;
- i. Loss of wage-earning capacity in the past;
- j. Loss of wage-earning capacity, in reasonable probability, sustained in the future;
- k. Physical impairment in the past;
- l. Physical impairment, in reasonable probability, sustained in the future;
- m. Loss of the normal enjoyment of the pleasure of life in the past;
- n. Loss of the normal enjoyment of the pleasure of life, in reasonable probability, sustained in the future;

- o. Costs of suit; and
- p. All other relief, in law and equity, to which Plaintiffs may be entitled.
- q. Exemplary damages.

VII. EXEMPLARY DAMAGES

29. The acts and/or omissions of Defendant as set out above constitutes an entire want of care so as to indicate that the acts and/or omissions in question were the result of conscious indifference to the rights, welfare, and safety of Plaintiff, or that they constitute gross negligence, as that term is defined by law, so as to give rise to an award of exemplary damages. The acts/or omissions of Defendant, which when viewed objectively from the standpoint of the Defendant at the time of the occurrences, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; of which defendant had actual, subjective awareness of the risk involved but nevertheless proceeded with conscious indifference to the rights, welfare and safety of others. The acts and/or omissions of the Defendant, as set out above, constitute gross negligence, as that term is defined by law, so as to give rise to an award of exemplary damages against the Defendant. The Court should assess exemplary damages against Defendant in the amount that will punish Defendant and deter others from engaging in similar malicious and grossly negligent conduct.

VIII. PRESERVING EVIDENCE

30. Plaintiff hereby requests and demands that Defendant preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit or the damages resulting there from, including statements, photographs, videotapes, audiotapes, surveillance or security tapes or information, business or medical records, incident

reports, employee files, periodic reports, financial statements, bills, telephone call slips or records, estimates, invoices, checks, measurements, correspondence, facsimiles, email, voicemail, text messages, any evidence involving the incident in question, and any electronic images or information related to the referenced incident or damages. Failure to maintain such items will constitute "spoliation" of the evidence.

IX. JURY TRIAL

31. Plaintiff respectfully requests that the trial of this cause is by jury and have paid the requisite fee with the filing of their Original Petition.

X. U.S. LIFE TABLES

32. Notice is hereby given that Plaintiff intends to use the U.S. Life Tables as prepared by the Department of Health and Human Services.

XI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein and upon final hearing hereof, she take, have and recover, of and from said Defendant, the above damages, exemplary damages, costs of court, pre-judgment interest, post-judgment interest, and for such other and further relief to which she may be justly entitled.

Dated: August 12, 2024

Respectfully submitted,

THE BUTTON LAW FIRM

By: /s/Russell T. Button

Russell T. Button

Texas Bar No. 24077428

russell@buttonlawfirm.com

Ashley D. Knarr

Texas Bar No. 24102030

ashley@buttonlawfirm.com

4315 W. Lovers Lane, Suite A

Dallas, Texas 75209

T: 214-888-2216

F: 214-481-8667

Email for Service: service@buttonlawfirm.com

And

Rocio Gosewehr Hernandez

State Bar No. 24067660

Rocio@SnellingsInjuryLaw.com

Christian Albuquerque

State Bar No. 24117823

Christian@SnellingsInjuryLaw.com

Royeal Frasier-Lewis

State Bar No. 24116388

Royeal@SnellingsInjuryLaw.com

Scott Snellings

State Bar No. 24046878

Scott@SnellingsInjuryLaw.com

SNELLINGS LAW P.L.L.C.

5750 Genesis Court, Suite 205

Frisco, Texas 75034

Tel: (214) 387-0387

Fax: (469) 217-8347

E-service: Service@SnellingsInjuryLaw.com

ATTORNEYS FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Russell Button on behalf of Russell Button
Bar No. 24077428
service@buttonlawfirm.com
Envelope ID: 90777129
Filing Code Description: Petition
Filing Description: PLAINTIFFS ORIGINAL PETITION
Status as of 8/12/2024 11:19 AM CST

Associated Case Party: NIA MITCHELL

Name	BarNumber	Email	TimestampSubmitted	Status
Russell Button		russell@buttonlawfirm.com	8/12/2024 11:13:43 AM	SENT
Ashley Washington		ashley@buttonlawfirm.com	8/12/2024 11:13:43 AM	SENT
Scott Snellings		Scott@SnellingsInjuryLaw.com	8/12/2024 11:13:43 AM	SENT
Snellings Service		Service@SnellingsInjuryLaw.com	8/12/2024 11:13:43 AM	SENT
BLF Service		Service@buttonlawfirm.com	8/12/2024 11:13:43 AM	SENT